

**DECISION
GRAFTON PLANNING BOARD**

SPECIAL PERMIT (SP 2019-10) & SITE PLAN APPROVAL

**Anthony Caron
Tony's Pet Oasis, 168 Worcester Street, North Grafton, MA**

**Anthony Caron (Applicant)
Gloria Walsh (Owner)**

RECEIVED TOWN CLERK
GRAFTON, MA
2019 AUG 27 AM 9:58

Decision of the Grafton Planning Board (hereinafter the BOARD) on the petition of Anthony Caron, (hereinafter the APPLICANT), for a Special Permit (SP 2019-10) and Site Plan Approval to change the use from industrial to retail for a small pet supply store on property located at 168 Worcester Street North Grafton, MA, (hereinafter the SITE) which is located in an Industrial Zoning District and shown on Grafton Assessor's Map 27, Lot 6, and owned by Gloria Walsh (hereinafter the OWNER) by deed recorded in the Worcester District Registry of Deeds (WDRD) in Book 5912, Page 28. The application was formally received on June 27, 2019.

I. BACKGROUND

The above referenced application for Special Permit (SP 2019-10) and Site Plan Approval (hereinafter the Application) was submitted on June 27, 2019. Notice of the public hearing and the subject matter thereof was published in the Grafton News on July 4 and 11, 2019, and posted with the Town Clerk's Office on June 27, 2019. Abutters were notified by First Class Mail.

The public hearing on the Application was opened on July 22, 2019. The following Board members were present throughout the public hearing: Chairman David Robbins, Vice Chairman Robert Hassinger, Clerk Justin Wood, and Members Linda Hassinger and Prabhu Venkataraman. The applicant, Anthony Caron, presented the Application to the Board and the owner, Gloria Walsh was represented by Cheryl Haire. At the public hearing, all those wishing to speak to the petition were heard. The public hearing was continued to August 12, 2019. Following public input a motion was made by Robert Hassinger and seconded by Justin Wood to close the public hearing. The motion passed 5-0. The record of the proceedings and submissions upon which this decision is based may be referred to in the Office of the Town Clerk or in the Office of the Planning Board.

I. SUBMITTALS

The following items were submitted to the Board for its consideration of this application:

1. Original Application Submission, received June 25, 2019 to include the following;
 - a. Application for Special Permit, signed by Anthony Caron and Cheryl Haire (for Gloria Walsh), dated June 19, 2019, date stamped by the Town Clerk on June 27, 2019 and date stamped by Planning on June 25, 2019, 1 page.
 - b. Application for Site Plan Approval, signed by Anthony Caron and Cheryl Haire (for Gloria Walsh), dated June 19, 2019, and date stamped by Planning on June 25, 2019, 1 page.
 - c. Project Description/Narrative, date stamped by Planning on June 12, 2019, 1 page.

- d. Drawing of proposed shop site, date stamped by Planning on June 12, 2019, 1 page (hand-drawn).
 - e. Photo of shop site showing proposed parking, date stamped by Planning on June 12, 2019, 1 page.
 - f. Certificate of Good Standing, signed by Christine Atchue, dated May 23, 2019, date stamped by Planning on June 12, 2019, 1 page.
 - g. Abutters Listing for Map 27, Lot 6 (168 Worcester Street), dated May 23, 2019, signed by Ken O'Brien, MAA, Grafton Data Collector, and date stamped by Planning on June 12, 2019, 1 page.
2. Public Hearing Notice, date stamped by the Town Clerk on June 27, 2019, 1 page.
 3. Email from Normand Crepeau, Chief of Police, dated June 28, 2019 and date stamped received by the Planning Board on June 28, 2019, 1 page.
 4. Email from Nancy Connors, Board of Health, dated July 1, 2019 and date stamped received by the Planning Board on July 1, 2019, 1 page.
 5. Email from Katrina Koshivos, Zoning Board of Appeals, dated July 1, 2019 and date stamped received by the Planning Board on July 1, 2019, 1 page.
 6. Plan: entitled "Plan Showing Proposed Parking," prepared by Jarvis Land Survey, Inc., dated July 19, 2019 and received by the Planning Board on July 22, 2019, 1 sheet.
 7. Public Hearing Continuance form, signed by Cheryl Haire and Anthony Caron, dated July 22, 2019, and date stamped received by the Planning Board on July 22, 2019, 1 page.
 8. Letter to Robert Berger, Building Commissioner, dated August 8, 2019, regarding "Zoning Opinion in Support of Special Permit Application, 168 Worcester Street, Grafton, Massachusetts (the "Property")," and date stamped received by the Planning Board on August 9, 2019, 3 pages.
 9. Plan entitled "Plan Showing Proposed Parking," dated July 19, 2019, prepared by Jarvis Land Survey, Inc. and date stamped received by the Planning Board on August 12, 2019, 1 page (8.5"x11").
 10. Memo from Robert Berger, Building Commissioner, dated August 12, 2019, with attached letter from Todd Rodman, Esquire, SederLaw Attorneys, dated August 8, 2019, and date stamped received by the Planning Board on August 12, 2019, 4 pages.
 11. Email from Robert Berger, Building Commissioner, dated August 12, 2019 and date stamped received by the Planning Board on August 12, 2019, 1 page.
 12. Public Hearing Sign-In Sheet, dated August 12, 2019, 1 page.
 13. Mullin Rule Certification, for missed meeting of July 22, 2019, signed by Planning Board Member Prabhu Venkataraman, dated August 19, 2019, and date stamped received by the Planning Board on August 19, 2019, 1 page.

II. FINDINGS

At their meeting of August 26, 2019, after due consideration of the Exhibits submitted and the entire record of proceedings introduced and accepted in this matter, the Grafton Planning Board (motion by Mr. Hassinger, seconded by Mr. Wood), voted 5-0 to make the following Findings:

1. That the application for Special Permit is being sought to allow a retail pet supply store at 168 Worcester Street.

2. That the Site is located within the Industrial (I) District and a change to retail uses within the district requires the issuance of a Special Permit.
3. That there is no change or modification being proposed for the existing non-conforming residential use of the property or for the existing non-conforming physical structure. The sole change is the occupancy of the vacant commercial space by a retail pet supply store.
4. That during the public hearing the Board and the Applicant discussed the parking plan that was submitted (Exhibit #6). The parking plan was reviewed as set forth in Sect 4.2, Off-Street Parking and Loading of the Grafton ZBL for the retail store only.
5. The Board finds that the area of the store devoted to retail space as shown in Exhibit 1 is approximately 918 square feet (storage space is excluded). Section 4.2.2 required 1 space per 200 square feet (excluding storage), resulting in a minimum parking requirement of 5 parking spaces (918/ 200 equals 4.59 parking spaces).
6. The Board finds that the Inspector of Buildings determined that the parking associated with the pre-existing residential use was not considered part of the special permit application before the Board (Exhibits 8 & 10).
7. That the Board finds that the Inspector of Buildings determined that there was adequate parking to support the retail establishment in the front portion of the building (Exhibit 11) and that for the proposed use as detailed in the application submission (Exhibit 1), that a minimum five parking spaces is required for the use (Exhibit 14).
8. That the Applicant will be installing minimal signage in accordance with Section 4.4 of the ZBL.
9. That determinations regarding the above referenced Findings are based upon the plans identified in this Decision, as well as the information submitted and presented in association with the Application.
10. That determinations regarding the above referenced Findings are predicated on the satisfactory maintenance of the site in accordance with this Decision, as well as all applicable federal, State, and Local regulations, except where modified by this Decision.
11. That Section 1.3.3.2 of the ZBL requires that the procedure for Site Plan Review, as defined in the ZBL, be incorporated into the procedure for reviewing Special Permits.
12. That Section 1.3.3.3 of the ZBL defines the procedure for Site Plan Review, including a description of the plans and materials to be submitted to the Planning Board. The Board further finds that Section 1.3.3.4 of the ZBL allows an applicant to request waivers from certain requirements of the Site Plan Review procedure.
13. That pursuant to Section 1.3.3.4 of the ZBL, the Applicant requested waivers from the following requirements for preparing site plans, as listed in Section 1.3.3.3:
 - (d) certain site plan requirements, including various details and information to be shown on plan, as further described in the ZBL and as presented in the Waivers section of this decision;
 - (e) stormwater management hydrological study;
 - (f) report, if applicable, showing calculations of the volume of earth material to be removed from or delivered to the site, including a description of such removal or fill activity.

- (g) Written statements from engineer / architect preparing the plans indicating that the plans comply with the performance standards of Section 4.1 of the ZBL; and applicant / owner indicating site will be maintained with standards set forth in Section 4.1 of the ZBL.

14. That pursuant to Section 8.2.1 of the ZBL, the Applicant requested waivers from the requirement for a Traffic Study as listed in Section 8.2 – Traffic Study Required.

IV. WAIVERS

1. At their meeting of August 12, 2019, after due consideration of the Exhibits submitted and the entire record of proceedings introduced and accepted in this matter, the Grafton Planning Board (motion by Mr. Hassinger, seconded by Mr. Wood), voted 5-0 to grant the Applicant's request for waivers from the following requirements of *Section 1.3.3.3* of the ZBL, *except as noted*, with regard to preparing site plan for the reasons stated within the Findings of this Decision:

- ***Section 1.3.3.3 (d)***

- (10) Wetlands, ponds, streams, or other water bodies including all applicable buffer zones.
- (12) Existing and proposed topography;
- (13) All property lines of the subject property, and all setbacks of buildings and parking areas from said lines, and existing and proposed easements, if any;
- (14) Extent and type of all existing and proposed surfaces (pervious and impervious) on the property, including specific materials;
- (15) Lot coverage calculations showing percentage of buildings, percentage of pavement, and percentage of open space/ landscaped areas;
- (16) Parking calculations for proposed use(s), including all existing use(s) that will continue to exist on the property, if applicable;
- (17) Calculations of the volume of earth material to be removed or filled
- (20) Service Areas
- (21) Landscaping
- (22) Lighting
- (23) Proposed signs
- (27) Exterior storage areas and fences
- (28) Utilities and their exterior appurtenances
- (29) Provisions for dust and erosion control
- (30) Existing vegetation
- (31) Other information deemed necessary by the Planning Board due to the unique nature of the property

- ***Section 1.3.3.3(e):*** Stormwater management hydrological study;
- ***Section 1.3.3.3(f):*** Report, if applicable, showing calculations of the volume of earth material to be removed from or delivered to the site, including a description of such removal or fill activity.
- ***Section 1.3.3.3(g):*** Written statements from engineer / architect preparing the plans indicating that the plans comply with the performance standards of Section 4.1 of the ZBL; and applicant / owner indicating site will be maintained with standards set forth in Section 4.1 of the ZBL. *Except that, the Board denied the requested waiver under Section 1.3.3.3(g)*

for the written statement from applicant / owner indicating site will be maintained with standards set forth in Section 4.1 of the ZBL.

- *Section 1.3.3.3(h):* Any other information, materials, reports, etc. deemed necessary by the Planning Board, due to the special nature of the proposed use /activity.

2. At their meeting of August 12, 2019, after due consideration of the exhibits submitted and the entire record of proceedings introduced and accepted in this matter, the Grafton Planning Board (motion by Mr. Hassinger, seconded by Mr. Wood), voted 5-0 in favor to grant the Applicant's request for a waiver from the requirements of *Section 8.2 – Traffic Study*.

V. CONDITIONS

At their meeting of August 12, 2019, after due consideration of the Exhibits submitted and the entire record of proceedings introduced and accepted in this matter, the Grafton Planning Board (motion by Mr. Hassinger, seconded by Mr. Wood), voted 5-0 to grant the Special Permit with the following conditions:

1. This Special Permit (SP 2019-10) application specifically authorizes for a change in use to allow a retail pet supply store as described within the above referenced Exhibits and Findings of this Decision.
2. The work authorized by this Special Permit shall be solely for the purposes as stated within the above referenced Conditions of this Decision. Changes to the application presented in this Application may be made only upon the authorization from the Planning Board. Such authorization shall only be granted provided the Board finds that any change requested by the Applicant is not substantially different than the application presented within the Exhibits of this Decision, and is consistent with the intent and purpose of this Decision. Requests for such change(s) shall be submitted in writing to the Planning Board.
3. Prior to the submission of the application for a building permit, the Applicant shall coordinate a site inspection with the Inspector of Buildings to confirm parking is adequate and in conformance with the parking requirements in Section 4.2.2 of the Zoning By-laws.
4. Prior to the submission of the application for a building permit, the Applicant shall provide a written statement to the Board from applicant / owner indicating site will be maintained with standards set forth in Section 4.1 of the ZBL.
5. Signage for, and associated with, the use authorized by this Decision shall be installed in accordance with, and conform to, the Town of Grafton Zoning By-law. This Decision shall not be construed as approving or authorizing any such signage.
6. This Special Permit and Site Plan Approval shall not take effect until the Decision has been recorded at the Worcester District Registry of Deeds (WDRD) and provided the Planning Board and the Building Department with a copy of such recording, including the WDRD Book and Page Number and/or Instrument Number.
7. By recording this Special Permit and Site Plan Approval Decision in the WDRD, the Applicant agrees to and accepts the conditions set forth in this Special Permit and Site Plan Approval Decision.

V. RECORD OF VOTE

Constituting a majority of the Planning Board, the following members voted 5-0 to grant the Special Permit (SP 2019-10) Application with Conditions for a Temporary Change in Use to Allow a Retail Pet Supply Store at 168 Worcester Street based on the information received at the public hearing and the aforementioned findings.

<u>David Robbins, Chairman</u>	<u>AYE</u>	<u>Linda Hassinger, Member</u>	<u>AYE</u>
<u>Robert Hassinger, Vice Chairman</u>	<u>AYE</u>	<u>Prabhu Venkataraman, Member</u>	<u>AYE</u>
<u>Justin Wood, Clerk</u>	<u>AYE</u>		

DATE OF FILING OF DECISION: BY ORDER OF THE BOARD



Joseph Laydon, Town Planner

8-26-2019

Date

- cc: Applicant / Owner
- Building Inspector
 - Assessors
 - Conservation Commission

To Whom It May Concern: This is to certify and verify that the twenty (20) days have elapsed since this decision was filed in the Town Clerk's office and that no such appeals have been filed in the reference to the same, or that, if such appeal has been filed, it has been dismissed or denied.

Kandy Lavallee, Town Clerk

Date